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FAX TRANSMISSION

DATE: January 13, 2004

PTO IDENTIFIER: Application Number 09/622,257-Conf. #8211
Patent Number

Inventor: Pierre Coutos-Thevenot

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (703) 872-9306

FROM: CONNOLLY BOVE LODGE & HUTZ LLP
John A. Evans

PHONE: (202) 331-7111

Attorney Dkt. #: 20061-00091-US

PAGES (Including Cover Sheet): 8

CONTENTS: 2 Statutory Disclaimers (2 pages);
Fee Transmittal (1 page);
Terminal Disclaimer Under 37 C.F.R. § 1.130 (3 pages)
Certificate of Transmission under 37 CFR 1.8 (1 page); and
Charge \$220.00 to deposit account 22-0185.

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CONNOLLY BOVE LODGE & HUTZ LLP
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Telephone: (202) 331-7111 Facsimile: (202) 293-6229

PTO/SB/97 (12-97)

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Donald S. Prater
Typed or printed name of person signing Certificate

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2 Statutory Disclaimers (2 pages);
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**FEE TRANSMITTAL
for FY 2004**

Effective 10/01/2003, Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT (\$)** 220.00**Complete if Known**

Application Number	09/622,267-Conf. #8211
Filing Date	January 2, 2000
First Named Inventor	Pierre Coutos-Thavenot
Examiner Name	R. Kallis
Art Unit	1638
Attorney Docket No.	20061-00091-US

METHOD OF PAYMENT (check all that apply)
☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None
☒ Deposit Account:

Deposit Account Number

22-0185

Deposit Account Name

Connolly Bove Lodge & Hutz LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	** =	x	=
Multiple Dependent	** =	x	=

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	96	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	96	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$) 0.00

**or number previously paid, if greater. For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	2053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1480	130	1480	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1808	180	1808	180	Submission of Information Disclosure Stmt	
6021	40	9021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify)				1814 Two Statutory Disclaimers	220.00

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 110.00**SUBMITTED BY**

Name (Print/Type) John A. Evans

Registration No. (Attorney/Agent)

44,100

(Complete if applicable)

Telephone 202-331-7111

Signature

Date

January 13, 2004

Attorney Docket: 20061/00091

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
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JAN 13 2004

OFFICIAL

In re Application of:

Pierre Coutos-Thevenot et al.

Serial No.: 09/622,257

Art Unit: 1638

Filed: January 2, 2000

Examiner: Kallis, Russell

For: NUCLEIC ACID COMPRISING
THE SEQUENCE OF A
STRESS-INDUCIBLE
PROMOTER AND A
SEQUENCE OF A GENE
ENCODING A STILBENE
SYNTHASE

Atty Docket: 20061/00091

TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.130

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Champagne Moet & Chandon, a corporation organized under the laws of France, and Bayer Aktiengesellschaft, a corporation organized under the laws of Germany, are jointly, the assignees of the entire right, title, and interest of the above-referenced patent application.

The assignment was recorded in the United States Patent and Trademark Office at Reel 011437, Frame 0657.

Claim 30 stands rejected under the judicial doctrine of obviousness double patenting over the claims of prior patent No. 6,677,505.

With respect to Claim 30, the Assignees of the instant application hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently

09/622,257; Coutos-Thevenot

1

Attorney Docket: 20061/00091

shortened by any terminal disclaimer, of prior Patent No. 6,677,505. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Claim 31 stands rejected under the judicial doctrine of obviousness double patenting over the claims of prior patent No. 6,063,988.

With respect to Claim 31, the Assignees of the instant application hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,063,988. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of

Attorney Docket: 20061/00091

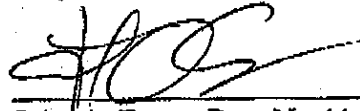
competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is an attorney of record.

A Terminal Disclaimer Fee under 37 CFR 1.20(d) is included.

The Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this communication, including any extension fees or fees for the net addition of claims, to Deposit Account No. 22-0185.

Respectfully submitted,



John A. Evans, Reg. No 44,100
Connolly, Bove, Lodge & Hutz LLP
1990 M Street, N.W., Suite 800
Washington, D.C. 20036-3425
Telephone: 202-331-7111

Date: January 13, 2004

PTO/SB/26 (05-03)

Approved for use through 4/30/2003. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

20061-00091-US

In re Application of: Pierre Coutos-Thevenot

Application No.: 09/622,257-Conf. #8211

Filed: January 2, 2000

For: **NUCLEIC ACID COMPRISING THE SEQUENCE OF A STREE-INDUCIBLE PROMOTER AND
A SEQUENCE OF A GENE ENCODING A STILBENE SYNTHASE**

The owner*, Champagne Moët & Chandon & Bayer Aktiengesellschaft, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,063,988. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.


Signature

1/13/04
Date

John A. Evans - 44,100

Typed or printed name

(202) 331-7111

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/06 may be used for making this certification. See MPEP § 324.

PTO/SB/28 (05-03)

Approved for use through 4/30/2003. OMB 0851-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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Docket Number (Optional)

20061-00091-US

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Application No.: 09/622,257-Conf. #8211

Filed: January 2, 2000

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2. ☒ The undersigned is an attorney or agent of record.



Signature

1/13/04

Date

John A. Evans - 44,100

Typed or printed name

(202) 331-7111

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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Form PTO/SB/96 may be used for making this certification. See MPEP § 324.